

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

ROBERT ALLEN STANFORD,

Petitioner,

v.

Case No: 5:21-cv-271-BJD-PRL

WARDEN, FCC COLEMEN – USP
II,

Respondent.

ORDER OF DISMISSAL WITHOUT PREJUDICE

Petitioner, an inmate of the federal correctional system proceeding pro se, initiated this action by filing a Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 (Doc. 1; Petition). This is Petitioner’s third attempt in this Court to challenge his 2012 conviction and sentence imposed by the United States District Court for the Southern District of Texas, Houston Division. See Case No. 5:20-cv-00621-BJD-PRL (dismissing the case without prejudice because Petitioner’s argument was foreclosed by McCarthan v. Dir. of Goodwill Indus.-Suncoast, Inc., 851 F.3d 1076, 1079, 1081 (11th Cir. 2017)); and 5:20-cv-00332-SPC-PRL (dismissing the case without prejudice for lack of subject matter jurisdiction). Petitioner contends his claim falls within § 2255’s saving clause because his “actual innocence” of a non-existent crime/ineffective

assistance of counsel’ claim . . . [raised] in his ‘first’ habeas application was improperly time-barred.” See Petition at 29 (emphasis in original).

For the reasons stated by this Court previously, see Case No. No. 5:20-cv-00621-BJD-PRL (Docs. 3, 6), Petitioner’s claim is not cognizable under § 2241. See Amodeo v. FCC Coleman - Low Warden, 984 F.3d 992, 994 (11th Cir. 2021) (“A claim of actual innocence is not one of the rare ones for which a § 2255 motion is an inadequate or ineffective remedy.”). If Petitioner wants to file a second § 2255 motion, he must first obtain permission to do so from the United States Court of Appeals for the Fifth Circuit.

Accordingly, it is

ORDERED:

1. This case is **DISMISSED without prejudice**.
2. The **Clerk of Court** shall enter judgment dismissing this case without prejudice, terminate any pending motions, and close this case.

DONE AND ORDERED at Jacksonville, Florida, this 24th day of May 2021.



BRIAN J. DAVIS
United States District Judge

Jax-6
c:
Robert Allen Stanford